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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application	: 09/874,421	
Applicant(s)	: LORD, William P.	
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CERTIFICATE OF TRANSMISSION

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By: _C. De Luca_

Title: **METHOD AND APPARATUS FOR TIME SHIFTING OF BROADCAST CONTENT THAT HAS SYNCHRONIZED WEB CONTENT**

Mail Stop: **APPEAL BRIEF - PATENTS**
Commissioner for Patents
Alexandria, VA 22313-1450

APPEAL UNDER 37 CFR 41.37

Sir:

This is an appeal from the decision of the Examiner dated 19 October 2006, finally rejecting claims 1-8, 10-12, and 18-26 of the subject application.

This paper includes (each beginning on a separate sheet):

1. *Appeal Brief;*

2. *Claims Appendix;*

3. *Evidence Appendix; and*

4. *Related Proceedings Appendix.*

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PAGE 1/19 * RCVD AT 4/16/2007 4:27:24 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-3/6 * DNIS:2738300 * CSID:914 332 0615 * DURATION (mm-ss):04-50

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APPEAL BRIEF

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I. REAL PARTY IN INTEREST

The above-identified application is assigned, in its entirety, to **Koninklijke Philips Electronics N. V.**

II. RELATED APPEALS AND INTERFERENCES

Appellant is not aware of any co-pending appeal or interference that will directly affect, or be directly affected by, or have any bearing on, the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

Claims 9 and 13-17 are canceled.

Claims 1-8, 10-12, and 18-26 are pending in the application.

Claims 18 and 20-24 stand rejected by the Examiner under 35 U.S.C. 102(e).

Claims 1-8, 10-12, 19, and 25-26 stand rejected by the Examiner under 35 U.S.C. 103(a).

These rejected claims are the subject of this appeal.

IV. STATUS OF AMENDMENTS

No amendments were filed subsequent to the final rejection in the Office Action dated 19 October 2006. A reply to the final rejection was filed on 18 December 2006.

V. SUMMARY OF CLAIMED SUBJECT MATTER

This invention addresses the recording of broadcast programs having associated web content. The availability of integrated multimedia systems has provided increased opportunities to provide broadcast programs with associated web content, such as programs with simulcast data on web sites associated with the broadcast program (Applicant's page 1, line 20 - page 2, line 20). In like manner, the availability of digital video recorders and electronic program guides has provided increased opportunities to record programs for later viewing. This invention is premised on the observation that time-lapsed viewing of recorded broadcast programs is often incompatible with concurrent viewing of dynamically changing web content, particularly simulcast web content (page 3, lines 1-4). That is, if a recorded program is viewed hours or days after it is broadcast, the associated link to simulcast data on a web site will, in general, correspond to data that is associated with a current broadcast, and not the data associated with the recorded program. In an example embodiment of this invention, when a user chooses to record a broadcast program, the system identifies and downloads web content related to the broadcast program, and records both the broadcast program and the downloaded web content (page 3, lines 12-18; FIG. 5). Preferably, the synchronization between the broadcast program and the downloaded web content is also maintained and/or recorded so that the simulcast features are preserved (page 7, lines 12-14). When a user chooses to play back the recorded program, the recorded web content is also made available for playback, thereby providing the features that would have been available when the program was first broadcast (page 3, lines 14-16; page 6, line 21 - page 7, line 5).

As claimed in independent claim 1, the invention comprises a method (FIG. 5) for recording a television program broadcast by a TV broadcaster and web content associated with the television program communicated by a web server, wherein the method includes:

receiving a request to record the television program selected by a user (page 8, lines 18-22);

establishing a web connection to the web server (page 8, line 22- page 9, line 1);

downloading the web content (page 9, line 2);

synchronizing for storing in a memory the television program and the downloaded web content (page 9, lines 9-11); and

storing the television program and the downloaded web content in response to the request to record the television program (page 9, lines 2-4).

As claimed in dependent claim 2, the invention comprises the method of claim 1, including:

receiving a request to replay (page 9, lines 11-12), and

replaying the stored television program and the downloaded web content responsive to the request to replay, in a synchronized manner (page 9, lines 11-17).

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As claimed in independent claim 8, the invention comprises a method for providing a synchronized replay of a television program and corresponding web content originated from a TV broadcaster's web server, wherein the method includes:

transmitting a request to record the television program (page 8, lines 18-22);

automatically establishing a web connection to the web server of the TV broadcaster (page 8, line 22 – page 9, line 1);

synchronizing for storing in a memory the television program and the web content of the web server (page 9, lines 9-11);

storing the television program and web content in response to the request to record the television program (page 9, lines 2-4);

receiving a request to replay the stored television program (page 9, lines 11-12); and,

replaying the stored television program and simultaneously displaying the stored web content in response to the request to replay (page 9, lines 11-17).

As claimed in independent claim 18, the invention comprises a system (FIGs. 3, 7) that includes:

a broadcast interface that is configured to receive broadcast video (14, 24; page 8, lines 5-9),

a web interface that is configured to receive web content (6, 22; page 9, lines 6-8),

a controller (20) that is configured to receive a record command (12), and to concurrently initiate a recording (26) of the broadcast video and a recording of the web content (page 8, line 18 – page 9, line 4), to facilitate a concurrent playback of the broadcast video and the web content (page 9, lines 11-13).

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As claimed in dependent claim 19, the invention comprises the system of claim 18, wherein the controller is configured to add synchronizing data to at least one of the recordings of the broadcast video and the web content to facilitate a synchronized playback of the broadcast video and the web content (page 9, lines 9-17).

As claimed in dependent claim 20, the invention comprises the method of claim 18, wherein the controller is configured to receive a playback command, and to concurrently initiate the playback of the broadcast video and the web content in response to the playback command (page 9, lines 11-17).

As claimed in independent claim 23, the invention comprises a method that includes:

receiving a record command (page 8, lines 18-22), and, in response to the record command:

initiating a first recording of broadcast video (page 8, lines 19-20),

determining a web server associated with the broadcast video (page 6, lines 8-13),

downloading web content from the web server (page 9, line 2),

initiating a second recording of the web content (page 9, lines 2-4), and

associating the second recording to the first recording to facilitate access to the second recording when the first recording is accessed (page 6, lines 9-16).

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As claimed in dependent claim 24, the invention comprises the method of claim 23, including receiving a playback command, and in response to the playback command,

initiating a playback of the first recording (page 9, lines 11-12), and

initiating a playback of the second recording that is associated with the first recording (page 9, lines 11-17).

As claimed in dependent claim 25, the invention comprises the method of claim 23, including adding synchronization information to at least one of the first and second recordings to facilitate synchronized playback of the first and second recordings (page 9, lines 9-11).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 18 and 20-24 stand rejected under 35 U.S.C. 102(e) over Blackketter et al. (USP 6,772,438, hereinafter Blackketter)

Claims 1-8, 10-12, 19, and 25-26 stand rejected under 35 U.S.C. 103(a) over Blackketter and Hull et al. (USPA 2002/0056082, hereinafter Hull).

VII. ARGUMENT

Claims 18 and 20-24 stand rejected under
35 U.S.C. 102(e) over Blackketter

MPEP 2131 states:

"A claim is anticipated only if *each and every element* as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The *identical invention* must be shown in as *complete detail* as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

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Claims 18 and 20-22

Blackketter fails to teach a controller that is configured to receive a record command, and to concurrently initiate a recording of the broadcast video and a recording of the web content, to facilitate a concurrent playback of the broadcast video and the web content, as specifically claimed in claim 18.

As illustrated in Blackketter's FIGs. 3 and 4, Blackketter teaches a broadcast interface 224, a web interface 226, a video storage device 204, and a processor 230. As taught by Blackketter, "Processor 230 is capable of implementing the various procedures and operations discussed herein" (Blackketter, column 5, lines 6-8). However, the applicants respectfully note that concurrently initiating a recording of the broadcast video and a recording of the web content, to facilitate a concurrent playback of the broadcast video and the web content, as specifically claimed in claim 18, is not one of the procedures or operations taught in Blackketter.

The Office action asserts that Blackketter's receiver will concurrently record both video and web content upon receipt of a record command from a user, but fails to identify where Blackketter provides this teaching.

The Board of Patent Appeals and Interferences has consistently upheld the principle that the burden of establishing a prima facie case resides with the Office, and to meet this burden, the Examiner must specifically identify where each of the claimed elements are found in the prior art:

> "To meet [the] burden of establishing a prima facie case of anticipation, the examiner must explain how the rejected claims are anticipated by pointing out *where* all of the specific limitations recited in the rejected claims are found in the prior art relied upon in the rejection." *Ex Parte Naoya Isoda*, Appeal No. 2005-2289, Application 10/064,508 (BPAI Opinion October 2005).

Because the Office action fails to identify where Blackketter teaches concurrently initiating a recording of the broadcast video and a recording of the web content, as specifically claimed in claim 18, the applicant respectfully maintains that the Office action has failed to establish a prima facie case, and the rejection of claims 18 and 20-22 under 35 U.S.C. 102(e) over Blackketter should be withdrawn.

Claim 20

Blackketter also fails to teach that the controller is configured to receive a playback command, and to concurrently initiate the playback of the broadcast video and the web content in response to the playback command.

In support of this rejection, the Office action refers to the rejection of claim 18, and fails to support the assertion that Blackketter's receiver will concurrently initiate a playback of the broadcast video and the web content in response to a playback command.

Because the Office action also fails to identify where Blackketter teaches concurrently initiating a playback of broadcast video and web content in response to a playback command, as specifically claimed in claim 20, the applicant respectfully maintains that the Office action has failed to establish a prima facie case, and the rejection of claim 20 under 35 U.S.C. 102(e) over Blackketter should be withdrawn.

Claims 23-24

Blackketter fails to teach receiving a record command, and, in response to the record command initiating a first recording of broadcast video and initiating a second recording of the web content, and associating the second recording to the first recording to facilitate access to the second recording when the first recording is accessed, as specifically claimed in claim 23.

In support of this rejection, the Office action refers to the rejection of claim 18. As noted above, the Office action fails to identify where Blackketter teaches initiating recordings of both the broadcast video and web content, and thus has failed to establish a prima facie case to support this rejection. Accordingly, the rejection of claims 23-24 under 35 U.S.C. 102(e) over Blackketter should be withdrawn.

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Claim 24

Blackketter also fails to teach receiving a playback command, and in response to the playback command, initiating a playback of the first recording [of broadcast video], and initiating a playback of the second recording [of web content] that is associated with the first recording, as specifically claimed in claim 24.

In support of this rejection, the Office action refers to the rejection of claim 18. As noted above, the Office action fails to identify where Blackketter teaches initiating playback of both recorded broadcast video and recorded web content, and thus has failed to establish a prima facie case to support this rejection. Accordingly, the rejection of claim 24 under 35 U.S.C. 102(e) over Blackketter should be withdrawn.

Claims 1-8, 10-12, 19, and 25-26 stand rejected under
35 U.S.C. 103(a) over Blackketter and Hull

MPEP 2142 states:

> "To establish a *prima facie* case of obviousness ... the prior art reference (or references when combined) *must teach or suggest all the claim limitations...* If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness."

Claims 1-7

In this rejection, the Office action relies upon Blackketter for teaching storing a television program and corresponding downloaded web content in response to a request to record the television program, as claimed in claim 1.

The Office action repeats the assertion that Blackketter's receiver will initiate the concurrent recording of both a television program and downloaded web content, and again fails to support this assertion with a showing of where Blackketter provides this teaching.

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Because Blackketter fails to teach storing a television program and corresponding downloaded web content in response to a request to record the television program, as specifically claimed in claim 1, and because the Office action fails to establish a prima facie case to support this rejection, the applicants respectfully maintain that the rejection of claims 1-7 under 35 U.S.C. 103(a) that relies upon Blackketter for this teaching should be withdrawn.

Claims 2-3 and 5

Blackketter also fails to teach replaying the stored television program and the downloaded web content responsive to a request to replay, as specifically claimed in claim 2, upon which claims 3 and 5 depend.

As noted above, the Office action fails to show where Blackketter provides this teaching, and thus the rejection of claims 2-3 and 5 under 35 U.S.C. 103(a) that relies upon Blackketter for this teaching should be withdrawn.

Claims 8 and 10-12

Blackketter fails to teach storing a television program and web content in response to a request to record the television program, as specifically claimed in claim 8, upon which claims 10-12 depend.

Blackketter also fails to teach replaying the stored television program and simultaneously displaying the stored web content in response to a request to replay, as also specifically claimed in claim 8.

The Office action relies upon the rejection of claims 1-5 to support this rejection. As noted above, the Office action fails to show where Blackketter teaches storing a television program and web content in response to a request to record the television program, and fails to show where Blackketter teaches replaying the stored television program and simultaneously displaying the stored web content in response to a request to replay. Accordingly, the rejection of claims 8 and 10-12 under 35 U.S.C. 103(a) that relies upon Blackketter for these teachings should be withdrawn.

Claim 19

Claim 19 is dependent upon claim 18. In this rejection, the Office action relies upon Blackketter for teaching each of the elements of claim 18. As discussed above, Blackketter fails to teach concurrently initiating a recording of the broadcast video and a recording of the web content, as specifically claimed in claim 18, and the Office action fails to identify where Blackketter provides this teaching. Accordingly, the rejection of claim 19 under 35 U.S.C. 103(a) that relies upon Blackketter for teaching the elements of claim 18 should be withdrawn.

Claims 25-26

Claims 25 and 26 are dependent upon claim 23. In this rejection, the Office action relies upon Blackketter for teaching each of the elements of claim 23. As discussed above, Blackketter fails to teach receiving a record command, and, in response to the record command initiating a first recording of broadcast video and initiating a second recording of the web content, and associating the second recording to the first recording to facilitate access to the second recording when the first recording is accessed, as specifically claimed in claim 23, and the Office action fails to identify where Blackketter provides this teaching. Accordingly, the rejection of claims 25-26 under 35 U.S.C. 103(a) that relies upon Blackketter for teaching the elements of claim 23 should be withdrawn.

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CONCLUSIONS

Because Blackketter fails to teach concurrently storing a television program and corresponding web content in response to a request to record the television program, the Applicant respectfully requests that the Examiner's rejection of claims 18 and 20-24 under 35 U.S.C. 102(e) and claims 1-8, 10-12, 19, and 25-26 under 35 U.S.C. 103(a) be reversed by the Board, and the claims be allowed to pass to issue.

In the alternative, because Blackketter fails to teach concurrently playing back a television program and corresponding web content in response to a request to play back the television program, the Applicant respectfully requests that the Examiner's rejection of claims 20 and 24 under 35 U.S.C. 102(e) and claims 2-3, 5, 8, 10-12, and 24 under 35 U.S.C. 103(a) be reversed by the Board, and the claims be allowed to pass to issue.

Respectfully submitted

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CLAIMS APPENDIX

1. A method for recording a television program broadcast by a TV broadcaster and web content associated with the television program communicated by a web server, the method comprising:

    receiving a request to record the television program selected by a user;

    establishing a web connection to the web server;

    downloading the web content;

    synchronizing for storing in a memory the television program and the downloaded web content; and

    storing the television program and the downloaded web content in response to the request to record the television program.

2. The method of claim 1, including:

    receiving a request to replay, and

    replaying the stored television program and the downloaded web content responsive to the request to replay, in a synchronized manner.

3. The method of claim 2, wherein the replaying includes retrieving the stored television program and the downloaded web content from the memory.

4. The method of claim 1, wherein the storing includes synchronizing the television program selected by the user with the web content of the web server.

5. The method of claim 3, wherein the synchronization is achieved by time stamping the stored television program and the downloaded web content.

6. The method of claim 1, wherein the television program is received from one of cable, satellite, and antenna.

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7. The method of claim 1, wherein the TV broadcaster includes a proxy or unaffiliated entity providing an interactive capability between the user and the web server of the TV broadcaster.

8. A method for providing a synchronized replay of a television program and corresponding web content originated from a TV broadcaster's web server, the method comprising :

transmitting a request to record the television program ;

automatically establishing a web connection to the web server of the TV broadcaster;

synchronizing for storing in a memory the television program and the web content of the web server;

storing the television program and web content in response to the request to record the television program;

receiving a request to replay the stored television program; and,

replaying the stored television program and simultaneously displaying the stored web content in response to the request to replay.

9 (Canceled)

10. The method of claim 8, wherein the synchronization is achieved by time stamping at least one of: the stored television program, and the stored web content.

11. The method of claim 8, wherein the television program is received from one of cable, satellite, and antenna.

12. The method of claim 8, wherein the TV broadcaster includes a proxy or unaffiliated entity providing an interactive capability between the user and the web server of the TV broadcaster.

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13-17 (Canceled)

18. A system comprising:

    a broadcast interface that is configured to receive broadcast video,

    a web interface that is configured to receive web content,

    a controller that is configured to receive a record command, and to concurrently initiate a recording of the broadcast video and a recording of the web content, to facilitate a concurrent playback of the broadcast video and the web content.

19. The system of claim 18, wherein

    the controller is configured to add synchronizing data to at least one of the recordings of the broadcast video and the web content to facilitate a synchronized playback of the broadcast video and the web content.

20. The system of claim 18, wherein

    the controller is configured to receive a playback command, and to concurrently initiate the playback of the broadcast video and the web content in response to the playback command.

21. The system of claim 18, including

    a display device that is configured to display the playback of the broadcast video and the web content.

22. The system of claim 18, wherein

    the controller is configured to enable access to a web server that provides the web content associated with the broadcast video.

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23. A method comprising:

    receiving a record command, and, in response to the record command:

        initiating a first recording of broadcast video,

        determining a web server associated with the broadcast video,

        downloading web content from the web server,

        initiating a second recording of the web content, and

        associating the second recording to the first recording to facilitate

access to the second recording when the first recording is accessed.

24. The method of claim 23, including

    receiving a playback command, and in response to the playback command,

        initiating a playback of the first recording, and

        initiating a playback of the second recording that is associated with the

first recording.

25. The method of claim 23, including

    adding synchronization information to at least one of the first and second

recordings to facilitate synchronized playback of the first and second recordings.

26. The method of claim 25, including

    receiving a playback command, and in response to the playback command,

        initiating a playback of the first recording, and

        initiating a playback of the second recording that is associated with the

first recording, and

        synchronizing the playbacks of the first recording and the second

recording based on the synchronization information.

EVIDENCE APPENDIX

No evidence has been submitted that is relied upon by the appellant in this appeal.

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RELATED PROCEEDINGS APPENDIX

Appellant is not aware of any co-pending appeal or interference which will directly affect or be directly affected by or have any bearing on the Board's decision in the pending appeal.

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